

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION (CLEVELAND)**

RAY GILE, derivatively on behalf of  
VIEWRAY, INC.,

Plaintiff,

vs.

SCOTT W. DRAKE, CALEY  
CASTELEIN, JAMES F. DEMPSEY,  
SCOTT HUENNEKENS, D. KEITH  
GROSSMAN, DANIEL MOORE, BRIAN  
K. ROBERTS, GAIL WILENSKY, KEVIN  
XIE, ADITYA PURI, HENRY A.  
MCKINNELL, JR., AJAY BANSAL,  
CHRIS A. RAANES, SHAHRIAR MATIN,  
DAVID BONITA, BRIAN KNALEY,  
AND THEODORE T. WANG,

Defendants,

and

VIEWRAY, INC., a Delaware Corporation,

Nominal Defendant.

Case No. 1:20-cv-01615

Judge Phillip Calabrese

**JOINT MOTION TO VACATE AND RESET THE STATUS CONFERENCE  
CURRENTLY SET FOR SEPTEMBER 15, 2021**

Plaintiff Ray Gile (“Plaintiff”); defendants Scott W. Drake, Caley Castelein, James F. Dempsey, Scott Huennekens, D. Keith Grossman, Daniel Moore, Brian K. Roberts, Gail Wilensky, Kevin Xie, Aditya Puri, Henry A. McKinnell, Jr., Ajay Bansal, Chris A. Raanes, Shahriar Matin, David Bonita, Brian Knaley, and Theodore T. Wang; and nominal defendant ViewRay, Inc. jointly move for entry of an Order vacating and resetting the telephonic Status Conference currently set for September 15, 2021.

In support of this joint motion, the parties state as follows:

1. On September 13, 2019, a class action alleging violations of the federal securities laws against ViewRay, Inc. and certain of its officers was filed in this Court, captioned *Corwin v. ViewRay et al.*, Case No. 1:19-cv-02115 (N.D. Ohio) (the “Securities Class Action”).

2. On July 22, 2020, Plaintiff filed this shareholder derivative action on behalf of nominal defendant ViewRay, Inc. alleging violations of Section 14(a) of the Securities Exchange Act of 1934, breaches of fiduciary duty, unjust enrichment, and waste of corporate assets against Defendants (the “Derivative Action”). The allegations in the complaint filed in this Derivative Action overlap with the allegations made in the Securities Class Action.

3. On September 16, 2020, the defendants in the Securities Class Action moved to dismiss the operative complaint in that action (the “Second Amended Complaint”), and on October 30, 2020, the parties completed briefing on the motion to dismiss the Second Amended Complaint. Due to circumstances unique to this Derivative Action, and in the interests of preserving the parties’ and the Court’s resources, this Derivative Action has been stayed pending resolution of the motion to dismiss in the Securities Class Action.

4. On August 25, 2021, the Court granted defendants’ motion to dismiss the Second Amended Complaint in the Securities Class Action (“Dismissal Order”).

5. Plaintiffs in the Securities Class Action must submit any notice of appeal of the Court’s Dismissal Order no later than September 24, 2021.

6. On August 25, 2021, the Court set a telephonic status conference in this Derivative Action for September 15, 2021.

7. In the interests of efficiency of case management and conservation of time and resources, the parties request that the September 15, 2021 telephonic status conference be vacated

and reset for no earlier than twenty-one (21) days following the deadline for submission of any notice of appeal of the Court's Dismissal Order in the Securities Class Action, at the Court's convenience.

8. In light of the foregoing, the parties respectfully request the Court enter an order vacating and resetting the telephonic status conference currently set for September 15, 2021 to no earlier than twenty-one (21) days following September 24, 2021.

Respectfully Submitted,

Dated: September 13, 2021

**MURRAY MURPHY MOUL + BASIL,  
LLP**

/s/ Joseph F. Murray

Joseph F. Murray (OH 0063373)

1114 Dublin Road

Columbus, OH 43215

Telephone: (614) 488-0400

Facsimile: (614) 488-0401

Murray@mmmb.com

*Liaison Counsel for Plaintiff*

Michael I. Fistel, Jr

**JOHNSON FISTEL, LLP**

40 Powder Springs Street

Marietta, GA 30064

Telephone: (470) 632-6000

Facsimile: (770) 200-3101

MichaelF@johnsonfistel.com

*Lead Counsel for Plaintiff*

Dated: September 13, 2021

**GIBSON, DUNN & CRUTCHER LLP**

/s/ Monica K. Loseman

Monica K. Loseman (CO 34119)  
Allison K. Kostecka (CO 42313)

1801 California Street, Suite 4200  
Denver, CO 80202  
Telephone: (303) 298-5700  
Facsimile: (303) 313.2834  
mloseman@gibsondunn.com  
akostecka@gibsondunn.com

Michael D. Meuti (OH 0087233)  
**BENESCH, FRIEDLANDER, COPLAN  
& ARONOFF LLP**  
200 Public Square, Suite 2300  
Cleveland, OH 44114-2378  
Telephone: (216) 363-6246  
Facsimile: (216) 363-4588  
mmeuti@beneschlaw.com

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 13, 2021, I caused the forgoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ Allison K. Kostecka  
Allison K. Kostecka